

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

TERESA R. BURWELL,

**Plaintiff(s),**

V.

NEVADA PROPERTY I, LLC, et al.,

Defendant(s).

Case No.: 2:18-cv-00980-GMN-NJK

## ORDER

Pending before the Court is Plaintiff's amended complaint. Docket No. 6; *see also* Docket (right to sue letter). Pursuant to 28 U.S.C. § 1915(e)(2), the Court herein screens the amended complaint to determine if a claim has been stated in the amended complaint. *See* Docket (identifying applicable standards). In so doing, the Court is mindful that allegations of a complaint are held to less stringent standards than formal pleadings drafted by lawyers. *Pliler v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal construction of proceedings is required after *Twombly* and *Iqbal*).

To state a claim under the ADA, the plaintiff must show that (1) she is disabled, (2) she is a qualified individual with a disability, and (3) she was discriminated against because of that disability. *Smith v. Clark County School. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013). The amended complaint alleges that Plaintiff suffered a hand injury, that Defendant failed to provide a reasonable accommodation so that she could continue working, and that her employment was terminated because of her disability. *See, e.g.*, Docket No. 6 at ¶¶ 17-18, 43. While a thin showing

1 on the elements of an ADA claim, the Court finds the allegations in the amended complaint  
2 sufficient to survive the screening process given Plaintiff's status as a *pro se* litigant.<sup>1</sup>

3 In light of the above, it is hereby **ORDERED** that:

- 4 • The Clerk of the Court shall issue Summons to Defendant, and deliver the same to the  
5 U.S. Marshal for service. The Clerk of the Court shall also deliver a copy of the  
6 amended complaint (Docket No. 6) to the U.S. Marshal for service.
- 7 • Plaintiff shall have twenty days in which to furnish the U.S. Marshal with the required  
8 Form USM-285.<sup>2</sup> Within twenty days after receiving from the U.S. Marshal a copy of  
9 the Form USM-285, showing whether service has been accomplished, Plaintiff must  
10 file a notice with the court identifying whether defendant was served. If Plaintiff  
11 wishes to have service again attempted on an unserved defendant, a motion must be  
12 filed with the Court identifying the unserved defendant and specifying a more detailed  
13 name and/or address for said defendant, or whether some other manner of service  
14 should be attempted.
- 15 • Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service must be  
16 accomplished within 90 days from the date this order is entered.
- 17 • From this point forward, Plaintiff shall serve upon Defendant, or, if appearance has  
18 been entered by counsel, upon the attorney(s), a copy of every pleading, motion, or  
19 other document submitted for consideration by the court. Plaintiff shall include with  
20 the original papers submitted for filing a certificate stating the date that a true and  
21 correct copy of the document was mailed to Defendants or counsel for Defendants. The  
22 Court may disregard any paper received by a District Judge or Magistrate Judge that

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23       <sup>1</sup> When the Court screens a complaint, it does so without the benefit of an adversarial  
24 presentation. *Cf. Buchheit v. Green*, 705 F.3d 1157, 1161 (10 Cir. 2012). As such, nothing herein  
25 prevents Defendant from filing a motion to dismiss. The Court also notes that the amended  
26 complaint references other causes of action. *See* Docket No. 6 at 10-11. The Court does not express  
27 any opinion as to any of these other claims, as it is enough at the screening stage that at least one  
claim has been pleaded sufficiently. *See Bem v. Clark County School Dist.*, 2015 WL 300373, at  
\*3 n.1 (D. Nev. Jan. 21, 2015); *see also* 28 U.S.C. § 1915(e)(2)(B)(ii) (the screening process  
authorizes courts to dismiss a case if the plaintiff "fails to state a claim").

28       <sup>2</sup> The USM-285 form is available at [www.usmarshals.gov/process/usm285.pdf](http://www.usmarshals.gov/process/usm285.pdf).

1 has not been filed with the Clerk, and any paper received by a District Judge, Magistrate  
2 Judge, or the Clerk that fails to include a certificate of service.

3 IT IS SO ORDERED.

4 Dated: December 17, 2018

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6 Nancy J. Koppe  
7 United States Magistrate Judge

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